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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/077,364	02/15/2002	John K. Savage	29178/38215	3674

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EXAMINER
NGUYEN, CUONG H

ART UNIT	PAPER NUMBER
3661	

DATE MAILED: 04/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	**Applicant(s)**
Office Action Summary	10/077,364	SAVAGE, JOHN K.
	Examiner	**Art Unit**
	CUONG H. NGUYEN	3661

— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>22 February 2005</u>.
2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-22</u> is/are pending in the application.
   4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) <u>1-22</u> is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☒ The drawing(s) filed on <u>15 February 2002</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.
   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
   a)☐ All b)☐ Some * c)☐ None of:
   1.☐ Certified copies of the priority documents have been received.
   2.☐ Certified copies of the priority documents have been received in Application No. _____.
   3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5)☐ Notice of Informal Patent Application (PTO-152)
6)☐ Other: _____.

U.S. Patent and Trademark Office
PTOL-326 (Rev. 1-04)

Office Action Summary

Part of Paper No./Mail Date 031705

DETAILED ACTION

1. This Office Action is the answer to the communication received on 2/22/2005.

2. Claims 1-22 are pending in this application.

Response

3. The Examiner respectfully submits that he maintain previous position in the Office Action mailed on 8/24/2004 with the combination of cited prior art of Cahlander et al. and Dietrich et al.

4. On page 3, of the amendment (received on 2/22/05) lines 5-6, the applicant argues that: "desired quantities of food items at desired intervals" are not suggested by cited prior art, the examiner respectfully disagrees - Cahlander issues cooking instructions based on anticipated rates - this is equivalent to "desired quantities" because there is a reasonable link between "anticipated rates" and "desired quantities"; in other words, they are understood as interchangeable when talking about planning for necessary foods in a fast food restaurant (e.g. McDonald's fast food restaurants - a restaurant manager would predict number of cheese burgers for Tuesday's lunch or he would predict the customer's crowd/number for a weekday lunch (Tuesday) wherein cheeseburgers would be sold); therefore, Cahlander device schedules production rates, which is understandable

as "desired quantities" – see Cahlander, the abstract "…

deliver food to a storage station (to be ready) <u>at a rate

required to fill anticipated customer orders</u>" (when

teaching about "deliver food to a storage station"

Cahlander teaches about delivering current food, and claim

93 is directed to a <u>scheduling</u> system, this suggests that

Cahlander uses available (current) inventory to schedule a

future need).

On page 22, lines 14-17, it should be said that

Cahlander uses current inventory to plan for future needs

(see Cahlander, claim 93, and the abstract).

Cited reference of Dietrich et al. also rely on

current inventory for a later run/production (see Dietrich

et al., the abstract, and 13:50-53) – this is similar to a

prediction for a meal (that means " a desired quantities"

is thought/(taken into account in planning).

Cahlander et al. check current inventory to a future

plan (See Cahlander et al., 1:16-32 for a background that

Cahlander et al. recognize and compare current inventory to

future plan schedule to determine whether more food should

be prepared. The Cahlander et al. teach monitoring and

responding to a select relationship of value compared to

the table of cooking time to prepare intervals... The

examiner submits that Cahlander et al., Fig.41, 2:40-41,
4:54-56, 8:51-68, 29:8-14, and claim 72, suggest this idea.

The examiner respectfully submits that Cahlander et
al.'s reference is within the field of the inventor's
endeavor and this reference is reasonably pertinent to the
particular problem (to predict (near) future food needs)
with which the inventor was claimed (see Cahlander et al.
1:40-42). In the background of the original specification
(page 2, lines 4-13 of S.N. 08/863,000), the applicant
admits that "...Systems have been designed, such as that
shown in U.S. Patent No. 5,218,527, which instruct the cook
when to commence the items of a selected order so that all
the items are completed at a current inventory but is
responsive to a select order of a customer. Hence, this
system merely times when each item of a group of items
should be commenced.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all
obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set
forth in section 102 of this title, if the differences between the subject matter sought to be patented and
the prior art are such that the subject matter as a whole would have been obvious at the time the
invention was made to a person having ordinary skill in the art to which said subject matter pertains.
Patentability shall not be negatived by the manner in which the invention was made.

5.   Claims **14, 20, 22** are rejected under 35 U.S.C. 103(a) as obvious over Cahlander et al.(US Pat. 4,922,435), in view of Dietrich et al. (US Pat. 5,630,070).

A.   As to claim **14**, Cahlander et al. teach about a system for predicting future food needs in Fig.27, comprising:

- a processor programmed to determine cooking instructions for food items based on a selected relation between time of day, cooking times for the food items and desired quantities of food items at desired time intervals, and a selected relation between variable quantities of processed food items and the desired quantities of food items at the desired time interval (see Cahlander et al. the abstract);

- a memory coupled to the processor for storing information about food items, the information including desired quantities of food items at desired time intervals, cooking times for food items, and variable quantities of processed food items; and

- a user interface operationally coupled to the processor and the memory and adapted to communicate cooking instructions for the food items in response to a selected relation between time of day, the cooking times for the food items and the desired quantities of food items at desired time intervals, and a selected relation between the variable quantities of processed food items and the desired

quantities of food items at desired time intervals (see

Cahlander et al., Fig. 27, col. 25:63 to col. 26:20, and

col. 27:50-53).

To use a current inventory for a future need, Dietrich

et al. also rely on current inventory for a later

run/production (see Dietrich et al., the abstract, and

13:50-53).

It would have been obvious to one of ordinary skill in

the art at the time of invention to implement Cahlander et

al., with Dietrich et al.'s teaching, because Dietrich et

al. clearly suggest that an accurate quantity of product

would be provided through a current inventory about

available items for sales.

B.   As to claim **15**, Cahlander et al. teach about a system

for predicting future food needs in Fig.27, comprising:

- order receiving interface operationally coupled to

the processor and the memory (see Cahlander et al., Fig.1,

ref. 623; and they clearly disclose: "operator input terminal

623 which includes a full function keyboard and a CRT display"), and

adapted to receive orders for food items and update the

information about food items including the variable

quantities of processed food items.

C.   As to claim **16**, Cahlander et al. teach about a system

for predicting future food needs in Fig.27, wherein the

processor upon receiving an order for a selected number of

a selected food item from the order receiving interface

subtracts the selected number of the selected food item

from the variable quantities of processed food items for

the selected food item. Cahlander et al.'s claim 84 teach

that above features are inherent in Cahlander et al.'s

system.

D.   As to claims **17**, and **18**, Cahlander et al. teach about

a system for predicting future food needs in Fig.27,

wherein the user interface comprises an input device and an

output device (see Cahlander et al., Fig.1, ref. 623; and

they clearly disclose:" operator input terminal 623 which includes

a full function keyboard and a CRT display").

E.   As to claim **19**, Cahlander et al. teach about a system

for predicting future food needs in Fig.27, wherein the

processor initiates a cooking instruction for a selected

food item to the user interface upon the current time of

day being equal to or less than a time value in the desired

quantities of food items at desired time intervals for the

selected food item minus the cooking time for the selected

food item. This was inherently taught in 1:15-20 wherein

the food must be cooked under correct conditions for the

proper time (please note that Cahlander et al.'s system

uses timers combining with a processor for sensing time

intervals; then making decisions to initiate further
instructions).

F.   As to claim **20**, Cahlander et al. teach about a system
for predicting future food needs in Fig.27, wherein the
processor initiates a cooking instruction for a selected
food item to the user interface upon the quantities of
processed food items for the selected food item being less
than a desired quantity of the selected food item in the
desired quantities of food items at desired time intervals
(see Cahlander et al., 2:40-41, 4:54-56, 8:51-68, 26:39-42,
and 29:8-14 for using comparisons in initiating cooking
instructions).

G.   As to claim **22**, Cahlander et al. teach about a system
for predicting future food needs in Fig.27, wherein the
information about food items further including a number of
food items to be cooked (see **Cahlander** et al., '435, the
abstract lines 9-11).

6.   Claims **4, 11, 21** are rejected under 35 U.S.C. 103(a)
as obvious over Cahlander et al.(US Pat. 4,922,435), in
view of Dietrich et al. (US Pat. 5,630,070).

    The rationales and references for above rejection of
claim 14 are incorporated.

    Cahlander et al. do not disclose that quantities of
processed food items include a sum comprising quantities of

processed food items on-hand and quantities of food items presently cooking.

However, Dietrich et al. teach a similar way of performing inventory that taking into account both in-process and raw products (see **Dietrich** et al., 4:16-31). The examiner submits that what the applicant claims is merely a current available food inventory - counting both on-hand and presently cooked food.

It would be obvious to one of ordinary skill in the art to implement Cahlander et al., with Dietrich et al.'s teaching, because these references suggest that an accurate quantity of product would be provided in an inventory about available items for sales.

7.   Claims **1-3, 5-10, 12-13** are rejected under 35 U.S.C. 103(a) as being unpatentable over admitted prior art (see the original specification, page 2, lines 4-13), in view of Cahlander et al. (US Pat. 4,922,435), in view of Dietrich et al. (US Pat. 5,630,070).

A. In view of claims 1, 7-8:   Cahlander et al. check current inventory to a future plan (See Cahlander et al., 1:16-32 for a background that Cahlander et al. recognize and compare current inventory to future plan schedule to determine whether more food should be prepared. The Cahlander et al. teach monitoring and responding to a

select relationship of value compared to the table of
cooking time to prepare intervals...". The examiner
submits that Cahlander et al., Fig.41, 2:40-41, 4:54-56,
8:51-68, 29:8-14, and claim 72, suggest this idea.

The examiner submits that Cahlander et al.'s reference
is within the field of the inventor's endeavor and this
reference is reasonably pertinent to the particular problem
(to predict (near) future food needs) with which the
inventor was claimed (see Cahlander et al. 1:40-42). In
the background of the original specification (page 2, lines
4-13 of S.N. 08/863,000), the applicant admits that
"...Systems have been designed, such as that shown in U.S.
Patent No. 5,218,527, which instruct the cook when to
commence the items of a selected order so that all the
items are completed at a current inventory but is
responsive to a select order of a customer. Hence, this
system merely times when each item of a group of items
should be commenced.

Cahlander et al. teach a fully automated
system/computer system and method for cooking food
products, said system can determining and transmitting
cooking signals (instruction/time) for a selected food
items, comprising:

- programmable memory (see Cahlander, claim 83);

- a cooking station monitor (see Cahlander, col. 26, lines 3-21);

- a quantity of processed selected food item stored on said programmable memory (see Cahlander, claim 87, col.40, lines 49-51);

The examiner submits that Cahlander et al. teach the followings in Tables I-V :

- a table of desired quantities of the selected food items at desired time intervals relating to said table of selected food items, said table of desired quantities at desired time intervals being stored on said programmable memory; (see also Cahlander, col.40, lines 49-51 and claim 56);

- a table of cooking time to prepare intervals relating to said table of selected food items, said table of cooking time to prepare intervals being stored on said programmable memory (see also Cahlander, col.1, lines 18-32; col.2, lines 42-45; col.9, lines 25-34).

- a table of cooking time to prepare intervals relating to said table of selected food items, said table of cooking time to prepare intervals being stored on said programmable memory (see also Cahlander, col. 27, lines 50-53);

- control means for initiating a cooking instruction
  to said cooking station monitor in response to a
  selected relation between the current time and said
  table of desired quantities of the selected food
  items at desired time intervals and said table of
  cooking time to prepare intervals, and a selected
  relation between the variable quantity of selected
  food items and said table of desired quantities of
  selected food items at desired time intervals (see
  also Cahlander, the abstract, and claim 93).

To use a current inventory for a future need, Dietrich
et al. also rely on current inventory for a later
run/production (see Dietrich et al., the abstract, and
13:50-53).

It would have been obvious to one of ordinary skill in
the art at the time of invention to rely on Cahlander et
al. and Dietrich et al. for setting up a computer system
for determining and transmitting cooking instruction for
selected food items at time intervals to supply needs of
the selected food items as in claims 1 & 7-8; because they
sufficiently teach similar components to perform management
tasks for the benefit of serving/inventory food for future
short-term and long-term schedules.

B.   As to claims **2, 9**: Cahlander teaches a control means
to:

-initiate cooking instructions to a cooking station
according to planned intervals (see Cahlander, col.1 lines
17-19; and col.32 lines 41-45). This was inherently taught
in 1:15-20 wherein the food must be cooked under correct
conditions for the proper time (please note that Cahlander
et al.'s system uses timers combining with a processor for
sensing time intervals; and making decisions to initiate
cooking instructions).

C.   As to claims **3, 10,** Cahlander et al. teach a control
means to:

- establishes cooking instructions using ROBOT based on
stored/inventory quantities of processed selected food
items at desired time intervals (see Cahlander, Fig.41,
Tables II-III, and col.1 lines 17-19).

D.   As to claims **5, 12,** Cahlander et al. teach a pre-
programmed cash register to automatically taking inventory
("...control means subtracts a number of selected food
items manually entered upon said cash register from a
variable quantity of selected food items stored in a
memory") (see Cahlander, Fig.41 indicates that a
communication link between POS and controller for real-time
inventory, claims 84, and 112).

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E.   As to claims **6, 13,** Cahlander et al. teach different items to be cooked simultaneously (pre-programmed in memory and using a table of selected food items (see Cahlander, Table V, col.28 lines 43-49, and col.29 lines 1-7).

Conclusion

8.   Claims 1-22 are not patentable because the submitted arguments are unpersuasive. Accordingly, <u>THIS ACTION IS MADE FINAL</u>. See MPEP § 706.07(a). Applicants are reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action

9.   The prior art made of record and not relied upon were considered pertinent to applicant's disclosure:

-    Lee et al. (US Pat. 5,712,985), teach a system for estimating business demand based on business influences.

-    Hawley, (Pub. NO. GB002206222A - 12/29/1988), teaches about predicting a time at which the food will be cooked using a microprocessor in a cooking oven.

- STSC Inc.; Mar. 16, 1987. Acc. #00152990, File 621,"Optimal production planning . . . " by Bartmann, D.; Oct. 1983 Acc. #02301025 file #2.

8.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to CUONG H. NGUYEN whose telephone number is 703-305-4553. The examiner can normally be reached on 7:15am - 3:45pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, THOMAS G. BLACK can be reached on 703-305-8233. The fax phone number for the organization where this application is assigned is 703-305-7687.

S.N. 10/077,364
Art Unit 3661

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CUONG H.NGUYEN
Primary Examiner
Art Unit 3661

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